

31st Human Rights Council session

**16 March 2016, 12:00
ITEM 6 – UPR Outcomes
Nauru**

Statement by International Lesbian and Gay Association

delivered by André du Plessis

Mr President

This statement has been developed in consultation with LGBT human rights defenders from Nauru. The full version is on the UN extranet.

In 2011 during the first cycle of the UPR, Nauru accepted three recommendations to decriminalize same-sex relations. At the recent Working Group during the second cycle, Nauru received a further six recommendations encouraging it to now swiftly follow through on this commitment.

While we certainly welcome the fact that Nauru has explained that it will continue to work with many groups to ensure that awareness is raised amongst the citizens of Nauru (and we, together with partners in Nauru and the region, stand ready to work with it on this), we note with disappointment that Nauru only notes these new recommendations.

We remind Nauru that the criminalization of private consensual homosexual acts violates an individual's rights to privacy and to non-discrimination. The existence of a criminalizing law is – quite simply – a breach of international human rights law.

In its explanation – distributed to this Council earlier this week – Nauru states that its Criminal Code does not criminalize sexual behavior between consenting adults of the same sex in private. However, we wish to clarify that this is factually inaccurate. Sections 208, 209 and 2011 of the criminal code do criminalize same sex relations, whether in public or private with imprisonment with hard labour for up to fourteen years. As concluded by the Human Rights Committee, it is irrelevant whether laws criminalizing such conduct are enforced or not; their mere existence continuously and directly interferes with an individual's privacy.

Mr. President

This is not simply a matter of archaic and illegal laws on paper. This affects real people in different ways.

For example, Nima¹, a gay refugee from Iran, and his partner Ashkan, both currently live on Nauru, sent there under Australia's harsh asylum seeker policies.

Unfortunately, they have experienced violent attacks and verbal abuse on the island and are afraid to leave their unit and now only go out once a week with a security escort.

The existence of the law automatically places LGBT persons on the island in a more vulnerable situation with regard to violence, being less willing to go to the police for protection or investigation when they themselves would then be open to scrutiny. It also sets the tone for more general discrimination to take

¹ Real names protected for security reasons.

place in people's daily lives. The government has a responsibility to help bring about change on the island, and that includes repealing the law.

Mr. President,

Finally, Nauru noted that it is a Christian state, almost as an excuse as to why it has not decriminalized homosexuality. However, it is because it is a Christian state that Nauru should in fact be doing so.

The catechism of the Holy Catholic church states: "[Homosexuals] must be accepted with respect, compassion, and sensitivity."²

Further, in 2008 the Holy See clarified in a statement to the UN that it "*continues to advocate that every sign of unjust discrimination towards homosexual persons should be avoided and urges States to do away with criminal penalties against them.*"³

We therefore call on Nauru to be true to both its Christian values and the Universal Declaration of Human Rights and uphold the dignity of all human beings by swiftly bringing about an end to the criminalization of same sex acts.

Thank you.

² Catechism of the Catholic Church, #2358.
http://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a6.htm

³ Statement Of The Holy See Delegation at The 63RD Session Of The General Assembly Of The United Nations On The Declaration On Human Rights, Sexual Orientation And Gender Identity (18 December 2008):
http://www.vatican.va/roman_curia/secretariat_state/2008/documents/rc_seg-st_20081218_statement-sexual-orientation_en.html